

## **REMARKS**

In response to the Office Action mailed October 14, 2008, Applicants request reconsideration and withdrawal of the rejection based on the foregoing. Claims 3-6 and 10-30 are currently pending and stand rejected. Claims 3, 10, 28, 29, and 30 are amended to clarify the preexisting scope of these claims. No new matter has been added by these amendments. Applicants incorporate the remarks of the previous responses herein. For at least those reasons and the reasons discussed below, the claims are in condition for allowance.

### **Rejections under 35 U.S.C. § 101**

Claim 30 is rejected under 35 USC § 101 as being unpatentable over alleged non-statutory subject matter. The Office Action states that "the language 'a processor readable medium' raises a question as to whether claim 30 is directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101." Office Action, p. 3. In light of a recent case, *In re Bilski*, 545 F.3d 943 (Fed. Cir. 2008), the Office Action's justification for rejection under § 101 is invalid as a matter of law. Nonetheless, Applicants have amended Claim 30 in consistency with the Office Action's suggested language for computer-processing related claims and respectfully request withdrawal of the rejection for alleged non-statutory subject matter.

### **Rejections under 35 U.S.C. § 102**

Claims 28 and 29 are rejected under 35 USC § 102 as being anticipated by Kivelä et al (US 6,272,359) (hereinafter Kivela). Applicants respectfully traverse these rejections.

Claim 28 is amended to further describe a jewelry individual network component that is configured to wirelessly communicate "via a wireless network protocol" and "to store device identification and network identification information for use in the current modular personal network." These amendments are taught throughout the Specification. See, e.g., Specification, p. 1, lines 11-14; p. 3, lines 5-8; p. 3, line 23 – p. 7, line 3. Kivela does not disclose wireless communication via a wireless network protocol or the storage of device identification and network identification information for use in the current modular personal network. This is because the link communication described in Kivela is only a traditional telephony method of communication (i.e., the one-to-one transmission of signals between two devices, by modulation of electromagnetic, optical, or acoustic waves). Kivela, col. 4, line 24 – col. 5, line 19. With respect to the embodiments of Kivela, there is no language explicitly stating or implicitly requiring network-enabled wireless communication as a form of link communication in Kivela. Furthermore, the lack of such "a modular personal network" precludes Kivela from anticipating the storage of a network ID and device ID for use in the current modular personal network. At least for these reasons, Kivela does not teach or suggest amended claim 28.

Independent claim 29 contains substantially similar amendments as claim 28 and thus is allowable at least for substantially similar reasons as claim 28.

### **Rejections under 35 U.S.C. § 103**

Claims 3, 10, 14-27 and 30 are rejected under 35 USC § 103(a) as being unpatentable over Kivela in view of Inasaka (US 2002/0094845), (hereinafter Inasaka). Claims 4-5 and 11-12 are rejected under 35 USC § 103(a) as being unpatentable over Kivela in view of Inasaka and further in view of Anderson (US 6,594,370), (hereinafter Anderson). Claims 6 and 13 are rejected under 35 USC § 103(a) as being unpatentable over Kivela in view of Willard (US 4,803,487), (hereinafter Willard). Applicants respectfully traverse this rejection.

As discussed above, Kivela does not disclose wireless communication via a wireless network protocol. Independent claims 3 and 10 are amended to further describe sending data to and receiving data from "other individual network components in a modular personal network via a wireless network protocol[" At least for these reasons, Kivela does not teach or suggest amended claims 3 and 10.

The Office Action is also deficient in establishing a prima facie case with respect to claims 4-6 and 11-13. The examiner reliance on Anderson and Willard is misplaced. For example, with respect to claims 4-5 and 11-12, there is no mention or suggestion that Anderson discloses an (1) earring, (2) an earring worn in a user's pierced ear, (3) the earring having a wireless receiver for receiving audio and a speaker for playing audio, and (4) and an earring that includes demodulator and a modulator for sending signals to another device worn by the user. Anderson mentions an earpiece that is inserted in the ear canal or placed behind the ear. With respect to claims 6 and 13, the Office Action cited to Willard at col 3, lines 51-61. However, the cited text does not disclose a ring. Nor does the Office Action explain the absence of such a disclosure.

For at least these reasons alone, Kivela in view of Inasaka does not provide a basis for a 35 USC § 103(a) rejection. As Anderson or Willard do not provide any explicit or implicit references sufficient to correct this deficiency, claims 3 and 10 are in a condition for allowance. In addition, the dependent claims of claims 4-6, 11-27, and 30 are also in condition for allowance at least because their parent claims are in condition for allowance.

### **Miscellaneous**

Claim 20 has been amended to recite the "jewelry individual network component of claim 3, wherein each individual network component stores device identification and network

identification information for the current modular personal network." This amendment is taught throughout the Specification. See, e.g., Specification, p. 5, line 16-24.

**Conclusion**

In view of the above remarks, the applicants respectfully request withdrawal of the 35 U.S.C. 101 and 35 U.S.C. 103(a) rejections. The application is now believed to be in condition for allowance, early notice of which would be appreciated. Should the Examiner not agree or have any questions, then a personal or telephonic interview is respectfully requested to discuss any remaining issues in an effort to expedite the allowance of this application.

Respectfully submitted,

4/14/09  
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Date

  
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